

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MYNETTE TECHNOLOGIES, INC.
and STEVEN M. COLBY,

Plaintiffs,

V.

THE UNITED STATES,

Defendant,

and

GEMALTO, INC. and IDEMIA IDENTITY
& SECURITY USA LLC,

Intervenor-Defendants.

Case No. 16-cv-01647-RTH

Judge Ryan T. Holte

JOINT STATUS REPORT CONCERNING CASE SCHEDULE

Plaintiffs Mynette Technologies, Inc. and Steven M. Colby (collectively, “Mynette”), Defendant, the United States (“the Government”), and Intervenor-Defendants Gemalto, Inc. (“Gemalto”) and Idemia Identity and Security USA LLC (“Idemia”) (collectively, “the Parties”) respectfully submit this Joint Status Report, as Ordered by the Court on June 27, 2024. ECF No. 197.

In that Order, the Court granted the parties’ Joint Motion for Referral to ADR and Motion to Modify Schedule. *See* ECF No. 197. The Court directed the Parties to file “a joint status report (JSR) on or before 2 October 2024 or upon reaching agreement or impasse, whichever occurs earlier.” ECF 197 at 2. The ADR proceedings before Judge Kathryn Davis did not yield a settlement. Nonetheless, as suggested by Judge Davis, Plaintiffs and Defendant are considering whether direct settlement discussions would be productive.

I. Brief Case Background

Mynette originally filed this patent infringement action on December 14, 2016. ECF 1. The Court issued a claim construction order on August 17, 2018. ECF 68. The Parties negotiated a Protective Order that was submitted on November 2, 2018, and entered on November 9, 2018. ECF 73, 74. While fact discovery was ongoing, Gemalto intervened on October 17, 2019. ECF 96. Idemia intervened on March 6, 2020. ECF 107. Based on facts that unfolded during discovery, Defendants filed a Motion for Terminating Sanctions on October 25, 2021. ECF 125. After prior amendments to the case schedule, fact discovery closed on December 3, 2021. ECF 124.

The Court stayed the case pending resolution of the Motion for Terminating Sanctions on March 8, 2022. ECF 133. Under the prior schedule, before the stay, the exchange of initial expert reports were due three days later on March 11, 2022. After a Motion for Reconsideration filed on May 18, 2023 (ECF 171), the Court resolved Defendants' Motion on March 8, 2024. ECF 185. On May 10, 2024 the parties exchanged RCFC 26(a)(2)(B) opening expert reports on issues on which the parties carry the burden of proof, except for damages.

Defendants' May 10 invalidity expert report was designated Attorneys Eyes Only ("AEO"), including because it referred to third-party designated AEO information. Prior to the service of the May 10 reports, Plaintiff had sought permission for its validity expert to view AEO information. On May 20, 2024, Plaintiff received the consent of the third party to view the information.

As a result of discussions about mediating the case, on May 24, 2024, Defendants circulated a draft Joint Stipulation proposing to mediate in August and stay the expert discovery schedule. After settling on potential dates for the mediation, on June 7 the parties submitted a Joint Status Report and Motion to Refer Matter to ADR and to Modify Schedule. ECF 195. The

Court stayed expert discovery, and on June 27 granted the parties' motion and entered the Order granting the referral to ADR. ECF 195.

II. Prior Case Schedule

Prior to the Court's June 27th, 2024 Order referring this case to ADR, the following items (and corresponding dates) remained (ECF 194 at 1-2):

Event	Date
Exchange of RCFC 26(a)(2)(B) responsive expert reports (except for damages)	June 21, 2024
Close of expert discovery (for all issues other than damages)	July 15, 2024
Deadline for dispositive motions under RCFC 56	August 22, 2024
Deadline for responses to dispositive motions	September 23, 2024
Deadline for replies to dispositive motions	October 7, 2024

III. New Case Schedule

The Court's Order (ECF No. 197) instructed the parties that "propose a schedule for further proceedings in this case." *Id.* at 2. A schedule that resumes from the last scheduled event would resume responsive expert report exchanges. The Parties propose the following schedule:

Event	Date
Exchange of RCFC 26(a)(2)(B) responsive expert reports (except for damages)	November 6, 2024
Close of expert discovery (for all issues other than damages)	December 6, 2024
Deadline for dispositive motions under RCFC 56	January 10, 2025

Deadline for responses to dispositive motions	February 7, 2025
Deadline for replies to dispositive motions	February 21, 2025

V. Conclusion

The Parties respectfully request the Court enter the above-identified case schedule as per the Court's June 27, 2024 Order. ECF No. 197. Pursuant to RCFC 20(B) of Appendix E, the filing attorney represents that the undersigned have reviewed this document and consent to its filing.

Respectfully submitted,

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